



# OLR RESEARCH REPORT

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## **ANTI-CANCER MEDICATION PARITY LAWS IN SELECT STATES**

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You asked if any Northeast states (New England, New York, or New Jersey) have introduced or passed anti-cancer medication insurance coverage parity laws. You also asked for a brief description of the problem that the legislation attempts to address.

### **SUMMARY**

Connecticut, New Jersey, New York, and Vermont have enacted anti-cancer medication parity insurance coverage laws. New Hampshire enacted a law to study the issue of parity between orally and intravenously (IV) administered chemotherapy. Maine and Massachusetts have introduced anti-cancer medication parity legislation, but the bills did not pass. Rhode Island has not introduced such legislation.

Many health insurance plans cover IV chemotherapy, injected anti-cancer medications, and oral anti-cancer drugs differently, causing patients to pay far more out-of-pocket for the oral drugs than for the IV chemotherapy or injected medications. In recent years, states have enacted anti-cancer medication parity laws that require insurers to provide coverage for oral anti-cancer drugs that is at least as favorable as coverage for IV chemotherapy or injected anti-cancer medications.

## **BACKGROUND**

Cancer treatment methods have been changing. Traditionally, treatment involved IV chemotherapy drips or other medication injected into a person's vein. IV chemotherapy tends to attack both cancerous and healthy cells alike. More recently, oral anti-cancer drugs have been developed that target only cancer cells. In addition to being a more effective treatment, the oral anti-cancer drugs are also more convenient for patients.

### ***Insurance Coverage***

Many health insurance plans cover IV chemotherapy, injected anti-cancer medications, and oral anti-cancer drugs differently, causing patients to pay far more out-of-pocket for the oral drugs than for the IV chemotherapy or injected medications. Health plans cover IV chemotherapy and injected medications as an outpatient office visit, subject to a flat office co-payment that covers the drug and the cost of administering it. The office co-payment is generally no more than \$30, according to the Association of Community Cancer Centers (ACCC), an advocacy organization

(<http://accbuzz.wordpress.com/2012/05/07/oral-parity-update-its-time-for-congress-to-act/>).

On the other hand, health plans generally cover oral anti-cancer drugs under the plan's pharmacy benefit. Instead of a flat co-payment, plan enrollees pay a percentage of the drug's cost, up to 50% in some cases, according to Kaiser Health News. Kaiser reports that these oral drugs are expensive, often costing tens of thousands of dollars a year (<http://www.kaiserhealthnews.org/features/insuring-your-health/2012/cancer-drugs-by-pill-instead-of-iv-michelle-andrews-051512.aspx>).

### ***State Activity***

In recent years, at least 18 states have enacted anti-cancer medication parity laws, according to ACCC: Colorado, Connecticut, Delaware, Hawaii, Illinois, Indiana, Iowa, Kansas, Maryland, Minnesota, New Jersey, New Mexico, New York, Oregon, Texas, Vermont, Virginia, and Washington. These laws generally require insurers to provide coverage for oral anti-cancer drugs that is at least as favorable as coverage for IV chemotherapy or injected anti-cancer medications.

## ***Federal Activity***

Congress is also considering the issue. The 2011 Cancer Drug Coverage Parity Act (H.R. 2746) was referred to the House subcommittee on Health, Employment, Labor, and Pensions on September 8, 2011. It currently has 48 co-sponsors and is awaiting further action. The act requires insurers that cover chemotherapy treatments to provide coverage for oral anti-cancer drugs on terms that are no less favorable than the coverage provided for IV medication.

## **LEGISLATION IN NORTHEAST STATES**

All northeast states, except for Rhode Island, have considered the issue of anti-cancer medication parity. Table 1 below describes each Northeast state's activity, indicating whether a bill was introduced or enacted.

**Table 1: Northeastern States' Anti-Cancer Medication Parity Legislation**

<b><i>State</i></b>	<b><i>Citation</i></b>	<b><i>Description</i></b>
Connecticut	Enacted PA 10-63, codified as CGS §§ <a href="#">38a-504(d)</a> and <a href="#">38a-542(d)</a>	Effective January 1, 2011, the act requires health insurance policies that cover intravenously and orally administered anti-cancer medications prescribed by a licensed practitioner with prescribing authority to cover the orally administered medication on at least as favorable a basis as the intravenously administered medication. It prohibits insurers from reclassifying anti-cancer medications or increasing the patient's out-of-pocket costs for the medications as a way to comply.
Maine	Introduced 2009 LD 1040; died in committee	The bill required insurance policies that cover cancer chemotherapy to cover orally administered cancer medication on a basis no less favorable than covered intravenously administered or injected cancer medications.
Massachusetts	Introduced 2011 SB 2363; passed Senate, awaiting further action in the House	The bill requires insurance policies that cover cancer chemotherapy to cover prescribed, orally administered anti-cancer medication on a basis no less favorable than covered intravenously administered or injected cancer medications. Insurers cannot increase the patient cost sharing for anti-cancer medication as a way to comply.

**Table 1 (continued)**

<b>State</b>	<b>Citation</b>	<b>Description</b>
New Hampshire	Enacted 2010 Chapter 198 (SB 510)	Effective June 21, 2010, the act established a committee to evaluate the parity between oral and intravenous chemotherapy, including whether a disparity in coverage for treatment exists.
New Jersey	Enacted 2011 NJ Ch. 188 (SB 1834)	Effective July 15, 2012, insurance policies must cover prescribed, orally administered anti-cancer medication on a basis no less favorable than they provide for intravenously administered or injected anti-cancer medications. Orally administered anti-cancer medication cannot be subject to any prior authorization, dollar limit, copayment, deductible, or coinsurance provision that does not apply to intravenously administered or injected anti-cancer medication. Insurers cannot comply by increasing patient cost sharing.
New York	Enacted 2012 NY Ch. 12 (A. 8906)	Effective January 1, 2012, insurance policies that cover prescription drugs and cancer chemotherapy must cover prescribed, orally administered anti-cancer medication. Such coverage may be subject to co-payments, coinsurance, or deductibles, as long as they are at least as favorable as those that apply to coverage for intravenously administered or injected anti-cancer medications. Insurers cannot comply by increasing patient cost sharing for intravenous or injected anti-cancer medication.
Rhode Island	No legislation	
Vermont	Enacted 2009 VT No. 61 (H. 444, § 47)	Effective April 1, 2010, insurers that cover cancer chemotherapy treatment must cover prescribed, orally administered anti-cancer medication on a basis no less favorable than covered intravenously administered or injected anti-cancer medications.

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